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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/616,775	07/10/2003	Andrea Zanardi		1986

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EXAMINER	
DELCOTTO, GREGORY R	

ART UNIT	PAPER NUMBER
1751	

DATE MAILED: 05/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/616,775	ZANARDI ET AL.	
	Examiner	Art Unit	
	Gregory R. Del Cotto	1751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *14 February 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *3,4,6,9,17 and 18* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *3,4,6,9,17 and 18* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. Claims 3, 4, 6, 9, 17, and 18 are pending. Claims 1, 2, 5, 7, 8, and 10-16 have been canceled. Applicant's arguments and amendments filed 2/14/06 have been entered.

Objections/Rejections Withdrawn

The following objections/rejections as set forth in the Office action mailed 9/28/05 have been withdrawn:

The objection to claims 6-10 due to minor informalities has been withdrawn.

Priority

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation

under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 3, 4, 9, 17, and 18 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over EP 315,204.

'204 teaches a bleaching composition which comprises hydrogen peroxide and/or a hydrogen peroxide addition compound such as percarbonate, perborate, etc., a hindered amine compound selected from the group consisting of heterocyclic hindered amines, acyclic hindered amine compounds and salts thereof; and an active halogen-containing compound. See Abstract. Note that, the presence of a hindered amine compound in combination with a hydrogen peroxide source and an active halogen-containing compound allows for enhanced bleaching effects without discoloration. Note that, the hindered amines as taught by '204 are the same as those recited by the instant claims. See page 5, line 1 to page 8, line 55. The hydrogen peroxide is used in an amount of 50 to 99% by weight, the hindered amine is used in an amount of 0.5 to 40% by weight and the active halogen-containing compound is used in amounts from 2 to 30% by weight.

The bleaching composition can be employed as it is or can be used as a bleaching agent in a mixture with conventionally used components. In addition, the bleaching composition can be added as a bleaching effect-imparting component to granular detergent. In other words, the bleaching composition can be desirably used as

a bleaching detergent composition containing 0.1 to 30% by weight of hydrogen peroxide, 0.1 to 30% by weight of hindered amine, 0.1 to 30% by weight of chlorine, etc. See page 12, lines 25-60. The bleaching operation comprises dissolving or dispersing the composition in water and immersing textile fabrics in the solution. The amount of bleaching agent can be suitably selected according to the desired degree of bleaching. See page 13, lines 20-45. Note that, with respect to the process limitation as recited by instant claim 1 which is simply "stabilizing the viscosity and/or active chlorine content of liquid compositions by adding a hindered amine to the composition", the Examiner asserts that, the composition as taught by '204, once dissolved in the water, would add a hindered amine to a liquid composition containing an alkali hypochlorite in the requisite proportions and inherently stabilize the active chlorine content of the resultant detergent composition. '204 disclose the claimed invention with sufficient specificity to constitute anticipation.

Accordingly, the teachings of '204 anticipate the material limitations of the instant claims.

Alternatively, even if the broad teachings of '204 are not sufficient to anticipate the material limitations of the instant claims, it would have been nonetheless obvious to one of ordinary skill in the art to arrive at the claimed amount of hindered amine added to the composition in order to provide the optimum stabilizing properties to the composition because '204 teaches that the amount of hindered amine added to the composition may be varied.

Claims 3, 4, 6, 9, 17, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ambuter et al (US 6,083,422) in view of EP 315,204.

Ambuter et al teach thickened aqueous bleach compositions containing either an alkali metal hypohalite or peroxygen bleach. Compositions containing hypohalite or peroxygen bleaches are particularly difficult to thicken with sufficient stability for commercial value. The addition of a rheology stabilizer minimizes the loss of stability over time and enable compositions of varying bleach and pH level to be obtained. See Abstract. The rheology modifier is used in amounts from about 0.01 to 10% by weight and includes a polymer which can be a non-associative thickener or stabilizer such as a homopolymer or a copolymer of an olefinically unsaturated carboxylic acid or anhydride monomer. See column 6, lines 10-65. Note that, the Examiner asserts that it would have been obvious to one of ordinary skill in the art to use a combination of peroxygen bleach and chlorine bleach in the composition taught by Ambuter et al, with a reasonable expectation of success because Ambuter et al teach the equivalence of peroxygen bleaches to chlorine bleaches as bleaching agents. See MPEP 2144.06 and *In re Kerkhoven*, 626 F.2d 846, 850, 205 USPQ 1069, 1072 (CCPA 1980).

Ambuter et al do not teach the use of hindered amine which stabilizes the active chlorine or a composition containing a hindered amine in the specific proportions as recited by the instant claims.

'204 is relied upon as set forth above.

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to use a hindered amine in the composition taught by Ambuter et

al, with a reasonable expectation of success, because '204 teaches that the use of such compounds in a similar bleaching composition increases the bleaching effect of the hydrogen peroxide/chlorine bleach combination without discoloration. Note that, the Examiner asserts that, the composition suggested by Ambuter et al in combination with '204 would have the stabilized active chlorine content as recited by the instant claims because the teachings of Ambuter et al in combination with '204 teach forming a composition containing the same components in the same proportions as recited by the instant claims.

Response to Arguments

With respect to '204, Applicant states that nowhere within this patent is there any mention that the stabilization of the viscosity and/or the active chlorine content of bleaching compositions can be solved by adding a hindered amine as recited by the instant claims. In response, note that, the Examiner maintains that the hindered amine as disclosed by '204 would have the same stabilization effect on viscosity and/or the active chlorine content when added to a bleaching composition as recited by the instant claims because '204 disclose the same hindered amine as recited by the instant claims which may be added to bleaching composition. Note that, the discovery of a previously unappreciated property of a prior art composition, or of a scientific explanation for the prior art's functioning, does not render the old composition patentably new to the discoverer. The is no requirement ahta a person of ordinary skill in the art would have recognized the inherent disclosure at the time of invention, but only that the subject matter is in fact inherent in the prior art reference. See MPEP 2112. Furthermore, The

reason or motivation to modify the reference may often suggest what the inventor has done, but for a different purpose or to solve a different problem. It is not necessary that the prior art suggest the combination to achieve the same advantage or result discovered by applicant. See MPEP 2144.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory R. Del Cotto whose telephone number is (571) 272-1312. The examiner can normally be reached on Mon. thru Fri. from 8:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas McGinty can be reached on (571) 272-1029. The fax phone

number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Gregory R. Del Cotto
Primary Examiner
Art Unit 1751

GRD
May 1, 2006